MT LEGISLATIVE HISTORY

Chapter 426 1973

Bill H 480 S _____ Original bill & hist. ___C

H. Committee on Business & Industry		S. Committee on Business & Industry	
Hearing Date(s) Feb 07	✓C	Hearing Date(s) Mar 02	✓C
_____	___C	Mar 09	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Feb 07	✓C	Mar 07	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

March 7, 1973

The Committee on Business and Industry met on Wednesday, March 7, 1973 at 11:00 A. M. in Room 412. Roll call was taken by the Secretary and all members were present except for three members who were absent due to conflicting meetings.

House Bill No. 544 was brought before the Committee for discussion. Representative Greely appeared before the Committee and a question and answer period followed. Representative Greely will make amendments to House Bill 544.
Wesley W. Wertz from the Montana Bankers Association spoke briefly in opposition to the bill. Senator Broeder made a motion which was seconded by Senator Rosell that the Bill Be Passed for the Day. Motion carried.

House Bill 480. Senator Broeder brought amendments before the Committee and a motion was made by Senator Devine and seconded by Senator Rosell that the Bill Be Concurred In as amended. Motion carried.

House Bill 441. After discussion of the amendments a motion was made by Senator Broeder and seconded by Senator Lowell that House Bill 441 Be Concurred In as amended. Motion carried.

There being no further business before the Committee a motion was made and seconded that the meeting adjourn. Tim 12:35 P. M.

D. W. Wolfe

Chairman DeWolfe

March 2, 1973

A subcommittee consisting of Senator Rosell and Senator Devine were asked to be on a committee in regards to House Bill No. 480 at a later date.

It was decided by the Committee to defer action on House Bill 544 until a later date.

Meeting adjourned at 5:35.

E. DeWolfe

DeWolfe Chairman

March 2, 1973

The Committee on Business and Industry met on Friday, March 2, 1973 in Room 412 at 11 o'clock for discussion of House Bills 394,278,349, 441 and 480.

House Bill 394: Bob Burke representing the Montana Bankers Association appeared in support for House Bill 394. No opponents. A motion was made by Senator Lowe that House Bill 394 Be Concurred In. Motion was seconded by Senator Rosell. Motion carried.

House Bill 349: Senator Groff spoke in support of House Bill 349. After some discussion by the members, a motion was made by Senator Broeder and seconded by Groff that the Bill Be Concurred in. Motion carried.

House Bill 278: Representative Towe appeared before the Committee and talked before the members in support of his bill. Opposition to House Bill 278:, Bob Corette, Montana Power Co.,Butte, Montana, Cal Robinson, Pacific Power and Light, Kalispell, Montana, and Lester H. Loble II. Senator Shea was excused early due to another meeting.

House Bill 480: Pat Regan, Representative from District No. 12 spoke before the committee members in favor of this bill. Amendments were discussed. D. H. Siewert spoke before the Committee in support and amendments on House Bill 480.

House Bill 441: Representative Lee appeared before the Committee with an amendment to the bill. Section 1, page 2, line 15, delete the word "property".

Senator Lowe and Keenan were excused a little early as they had other meetings that were conflicting. A motion was made to finish up three bills left after adjournment of the Senate. Recessed at 12:20

Meeting after adjournment March 2, 1973

Meeting was called to order by the Chairman at 4:35 P. M. March 2, Room 412. All members being present.

A motion was made by Senator Rosell and seconded by Senator Broeder that House Bill 278 Be Not Concurred In. Motion carried.

A subcommittee was appointed to hear House Bill 441 at a later date. Senator Keenan and Broeder were asked to be on this Committee.

NAME Don Schaupthaul BILL NO. 480

ADDRESS 2708 Clark Ave DATE

Billings, Mont.

WHOM DO YOU REPRESENT? City of Billings

SUPPORT? X OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

"B 480 Rep. Regan's amendments

be amended on page 3, section 4, subsection (1), line 6, after the figure "(1)" by striking the following material: "~~In a home solicitation sale, unless a buyer requests the seller to provide goods or services without delay in an emergency, the~~" and inserting in lieu thereof the word "The", and

further amend on page 4, section 5, subsection (3), line 25, after the word "shall" by inserting the word "also".

HB 480 Rep. Swanberg's first amendment

be amended on page 5, section 6, subsection (2), line 22, after the word "risk" by inserting the folloiwng material: "and such goods must be returned in substantially the same condition as received".

HB 480 Rep. Swanberg's second amendment

be amended on page 5, section 6, subsection (3), line 25, after the word "shall" by striking the following material: "~~be entitled to no compensation~~" and inserting in lieu thereof the following material: "not be entitled to enforce the contract but shall be entitled to reasonable compensation".

HB 404 Rep. Driscoll amendment

be amended in the title on page 1, line 8, after the word "TO" by striking the following material: "~~AN OUT OF STATE~~" and inserting in lieu thereof the word "A".

HB 441 Rep. Selstad's amendment

be amended on page 2, section 1, subsection (b), line 9, after the word "own" by striking the following material: "~~residence, provided that said residence is maintained for his own use~~" and inserting in lieu thereof the word "property".

HB 480 Rep. Rolfe amendment (not adopted but withdrawn)

be amended on page 5, section 6, subsection (2), line 22, after the word "risk" by inserting the following material: "in all cases, goods must be returned unused".

BUSINESS AND INDUSTRY COMMITTEE

February 7, 1973

The Business and Industry committee meeting was called to order this date with Chairman Mehrens presiding. All members were present with the exception of Rep. Aageson.

The following bills were before the committee for consideration:

HB 441...Rep. Lee presented the bill to the committee. Other proponent were Mr. John Hale, Mr. R. Williams, and Mr. Peter Lombardozy. There were no opponents.

HB 480...Rep. Regan, sponsor, explained the bill to the committee. Mrs. Muller and Mr. Norm Schoenthal testified as proponents. There were no opponents.

HB 418...Rep. Tierney, sponsor, presented the bill to the committee. Mrs. Doris Dietzen testified as a proponent. There were no opponents.

HB 404...Rep. Driscoll, sponsor, explained the bill to the committee. Mr. Madison and Mr. Tom Maddox testified as proponents. Mr. Maddox proposed amendments, attached, to the bill. There were no opponents.

HR 11...Rep. Harper, sponsor, explained the resolution to the committee. His proposed amendments are attached. There were no opponents.

The following actions were taken on bills before the committee:

HB 387...Rep. Lockrem moved to hold HB 387 in committee for one year. The motion was seconded and passed unanimously.

HB 441...Rep. Olson moved HB 441 as amended DO PASS. Rep. Selstad made a substitute motion to amend HB 441 (amendments attached). The substitute motion passed with Rep. Quilici and Regan voting NO. Rep. Olson's motion passed with Rep. Quilici and Regan voting NO. Rep. Harper abstained.

HB 480...Rep. Rolfe moved to amend HB 480, amendment attached. He withdrew his motion. Rep. Swanberg moved to amend HB 480, amendment attached. Rep. Harper made a substitute motion to all motions that HB 480 be held in committee. This motion failed with Rep. Harper and Lockrem voting YES.

Rep. Swanberg's motion to amend HB 480 passed unanimously. Rep. Quilici moved HB 480 as amended DO PASS. Rep. Swanberg made a substitute motion to amend HB 480, amendment attached. This motion passed unanimously.

Rep. Regan moved the adoption of her proposed amendments. The motion passed unanimously. Rep. Quilici's motion passed with Rep. Selstad, and Kessner voting NO. Rep. Harper abstained.

to set any standards that are more stringent than those set forth in the National Electrical Code.

(2) Rules and standards relating to buildings and equipment covered by the state or a municipal building code are not effective until approved by the state building code council and filed with the secretary of state."

Approved: March 21, 1973.

CHAPTER NO. 426

An Act to Provide for a Three (3) Day Cooling-off Period on Door-to-Door Sales Contracts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The purpose of this act is to afford consumers, subjected to high pressure door-to-door sales tactics, a "cooling-off" period.

Section 2. As used in this act:

(1) "Consumer transaction" means a transaction where the money, property, or service which is the subject of the transaction is primarily for personal, family or household purposes.

(2) "Home solicitation sale" means a consumer transaction in which the purchase price is twenty-five dollars ($25) or more, and the seller or a person acting for him, is a person doing business who engages in a personal solicitation of a sale at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. A sale which but for the fact that it is a cash sale would be a home solicitation sale shall be deemed a home solicitation sale if the seller makes or provides a loan to the buyer or obtains or assists in obtaining a loan for the buyer to pay any part of the purchase price. The term "home solicitation sale" does not include a transaction

(a) made pursuant to a preexisting revolving charge account, or pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or

(b) in which the buyer has a right of cancellation pursuant to federal law.

Section 3. (1) Except as provided in subsection (5), in addition to any right otherwise to revoke an offer, the buyer or any other person obligated for any part of the purchase price

may cancel a home solicitation sale until midnight of the third business day after the day on which the buyer has signed an agreement or offer to purchase relating to such sale.

(2) Cancellation occurs when written notice of cancellation is given to the seller.

(3) Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid.

(4) Notice of cancellation need not take the form prescribed and shall be sufficient if it indicates the intention of the buyer not to be bound.

(5) A home solicitation sale may not be cancelled if in the case of goods, the goods cannot be returned to the seller in substantially the same condition as when received by the buyer.

Section 4. (1) The seller shall furnish the buyer a notice which shall contain the statement set forth in paragraph (a) and printed in capital and lower case letters of not less than twelve (12) point bold faced type with the seller's name and business address and the statement set forth in paragraph (b),

(a) YOU MAY CANCEL THIS SALE WITHIN THREE BUSINESS DAYS.

If you decide within three days that you want to cancel the sale, tear off and mail the bottom of this card. To cancel, the card must be mailed BY CERTIFIED MAIL within three days after you sign the contract.

(date)

(b) CONTRACT SIGNED

I hereby cancel this sale.

(Buyer's signature)

(2) Until the seller has complied with the this section the buyer or any other person obligated for any part of the purchase price may cancel the home solicitation sale by notifying the seller in any manner and by any means of his intention to cancel; provided, however, that failure to mail the cancellation by certified mail does not nullify the cancellation as long as the cancellation is mailed within the prescribed time period. The period prescribed by section 3 shall begin to run from the time the seller complies with this section.

Section 5. (1) Except as provided in this section, within ten (10) days after a home solicitation sale has been canceled or an offer to purchase revoked, the seller shall tender to the

buyer any payments made by the buyer and any note of other evidence of indebtedness.

(2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods as provided by this section, the buyer may elect to recover an amount equal to the trade-in allowance stated in the agreement.

(3) If the seller refuses within the period prescribed by subsection (1) to return the cash down payment or goods tendered as down payment, he shall be liable to the buyer for the entire down payment and if the buyer is successful in his action therefor the court shall also award him one hundred dollars ($100) plus reasonable attorney's fees and costs.

(4) Until the seller has complied with this section the buyer may retain possession of goods delivered to him by the seller and shall have a lien on the goods in his possession or control for any recovery to which he may be entitled.

Section 6. (1) Except as provided by subsection (4) of section 5, within a reasonable time after a home solicitation sale has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale but need not tender at any place other than his residence. If the seller fails to demand possession of such goods within a reasonable time after cancellation or revocation, the goods shall become the property of the buyer without obligation to pay for them. For the purpose of this section, forty (40) days shall be presumed to be a reasonable time.

(2) The buyer shall take reasonable care of the goods in his possession both before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk and such goods must be returned in substantially the same condition as received.

Approved: March 21, 1973.

CHAPTER NO. 427

An Act Authorizing Cities, Counties and Airport Authorities to Impose Reasonable Passenger Service Charges for the use of Certain Public Airports to be Collected Either By Passenger Air Carriers, If They Agree To Collect The Charge On A Contract Basis, or to be Collected By Airport Personnel; Providing For Reporting, Collection, Disposition and Use Thereof; Providing Penalties; and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act: "Passenger air carrier" means a common carrier of passengers for hire by aircraft weighing over twelve thousand five hundred (12,500) pounds on a regular schedule or schedules, and a carrier of passengers for hire by aircraft weighing over twelve thousand five hundred (12,500) pounds on a contract or charter basis.

Section 2. (1) Every city or county or airport authority which constructs, operates or maintains, individually or jointly, a public airport with funds contributed in whole or in part, directly or indirectly, by the state, county, city or other public authority, is authorized and empowered to charge a reasonable service charge *not to exceed two dollars ($2) per day,* for each passenger enplaning upon every passenger air carrier aircraft at any such public airport as a point of origin for transportation purposes. The charge authorized to be imposed herein is in consideration of the use of the airport and associated airport facilities provided by the public for taking off and landing of commercial passenger aircraft, for providing facilities for the passengers thereof, and to help defray the cost of furnishing, operating, improving, maintaining and protecting the public airport and related facilities and the passengers, crews and equipment. The charge herein provided for is in addition to any other charges that may be required or imposed by the authority for transportation or other services provided. In the alternative, said city, county, or airport authority may collect the charge itself or cause said service charge to be collected directly from the enplaning passenger by its agents or employees.

(2) Each passenger air carrier which agrees by contract to collect said service charge shall:

(a) before the fifteenth of each month, file with the city, county, or airport authority, or responsible board thereof, a return showing the number of passengers for hire enplaning on aircraft of the passenger air carrier at the respective airport during the preceding calendar month;

(b) file with the return, additional other pertinent information required by the respective airport;

(c) remit with the return, the service charges imposed under this act, if, by agreement with the airport board or authority, they have contracted to collect the charge from the enplaning passenger.